

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SEAN P. JOHNSON,

4:09CV3001

Plaintiff,

v.

**MEMORANDUM
AND ORDER**

FAITH REGIONAL HEALTH SRV.,
NANCE COUNTY DEPUTY
SHERIFF, and RODNEY
WETOVICK, Nance County Atty.,

Defendants.

This matter is before the court on several Motions submitted by Plaintiff. Summarized, the Motions seek the appointment of counsel (filing nos. [16](#), [22](#), [23](#), and [25](#)), discovery (filing nos. [8](#) and [23](#)), leave to amend the Complaint (filing no. [24](#)) and authorization to proceed in forma pauperis (filing no. [15](#)).

Plaintiff has previously been given leave to proceed in forma pauperis (filing no. [11](#)) and that request is therefore denied as moot. Regarding Plaintiff's numerous requests for the appointment of counsel, the court notes that Plaintiff has sought, and the court has denied, the appointment of counsel at least four other times. (Filing Nos. [4](#), [7](#), [8](#), [12](#) and [19](#).) As the court has already informed Plaintiff, it cannot routinely appoint counsel in civil cases. In [Davis v. Scott](#), 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that "[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel" *Id.* (quotation and citation omitted). No such benefit is apparent here. Plaintiff's requests for the appointment of counsel are therefore denied.

Also pending are several requests for discovery and a request to amend the Complaint. Plaintiff has previously been given leave to amend his Complaint in order to sufficiently state a factual basis for his claims. (Filing No. [19](#).) Plaintiff was given an extension of time, but has still not filed a sufficient amended complaint. (*See* Docket Sheet.) Instead, Plaintiff sought leave to amend his Complaint. (Filing No. [24](#).) On the court's own motion, Plaintiff shall have until **June 26, 2009** to file a sufficient amended complaint. In the event that Plaintiff fails to do so by that date, this matter will be dismissed without prejudice and without further notice. In light of Plaintiff's failure to allege a factual basis for his claims, his discovery requests are denied without prejudice to reassertion after amendment of the Complaint.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Amend Complaint (filing no. [24](#)) is granted, as set forth in this Memorandum and Order. All other pending motions are denied.
2. On the court's own motion, Plaintiff shall have until **June 26, 2009** to file a sufficient amended complaint in accordance with the court's previous Memorandum and Order. In the event that Plaintiff fails to do so by that date, this matter will be dismissed without prejudice and without further notice.
3. The Clerk of the court is directed to set a pro se case management deadline with the following text: **June 26, 2009**: deadline for Plaintiff to submit sufficient amendment of the Complaint.

May 22, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge